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HOUSE BILL 723

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Kandy Cordova

AN ACT

RELATING TO HEALTH; ELIMINATING A REDUNDANT PROCEDURE IN HEALTH FACILITY REGULATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 24-1-5.2 NMSA 1978 (being Laws 1990, Chapter 105, Section 2, as amended) is amended to read:

"24-1-5.2. HEALTH FACILITIES--INTERMEDIATE SANCTIONS-- CIVIL PENALTY.--

A. Upon a determination that a health facility is not in compliance with any licensing requirement of the department, the department, subject to the provisions of this section and Section 24-1-5 NMSA 1978, may:

(1) impose any intermediate sanction established by regulation, including but not limited to:

(a) a directed plan of correction;

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(b) facility monitors;

(c) denial of payment for new medicaid admissions to the facility;

(d) temporary management; and

(e) restricted admissions;

(2) assess a civil monetary penalty, with interest, for each day the facility is or was out of compliance. Civil monetary penalties shall not exceed a total of five thousand dollars (\$5,000) per day. Penalties and interest amounts assessed under this paragraph and recovered on behalf of the state shall be remitted to the state treasurer for deposit in the general fund, except as otherwise provided by federal law for medicaid-certified nursing facilities. The civil monetary penalties contained in this paragraph are cumulative and may be imposed in addition to any other fines or penalties provided by law; and

(3) with respect to health facilities other than child-care centers or facilities, proceed pursuant to the Health Facility Receivership Act.

B. The secretary shall adopt and promulgate regulations specifying the criteria for imposition of any intermediate sanction and civil monetary penalty. The criteria shall provide for more severe sanctions for a violation that results in any abuse, neglect or exploitation of residents, clients or patients as defined in the regulations or that

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1 places one or more residents, clients or patients of a health
2 facility at substantial risk of serious physical or mental
3 harm

4 C. ~~[The provisions of this section for intermediate~~
5 ~~sanctions and civil monetary penalties shall not apply to~~
6 ~~certified nursing facilities except upon a determination by the~~
7 ~~federal health care financing administration that these~~
8 ~~provisions comply with the provisions for nursing facility~~
9 ~~remedies and civil monetary penalties pursuant to 42 U.S.C.~~
10 ~~1395 and 1396, as amended, and upon a determination by the~~
11 ~~department that no other state or federal agency is authorized~~
12 ~~to impose the same remedies, sanctions or penalties.~~

13 D.] A health facility is liable for the reasonable
14 costs of a directed plan of correction, facility monitors,
15 temporary management or receivership imposed pursuant to this
16 section and Section 24-1-5 NMSA 1978. The department may take
17 all necessary and appropriate legal action to recover these
18 costs from a health facility. All money recovered from a
19 health facility pursuant to this subsection shall be paid into
20 the general fund."